

[The facts of this case are sufficiently stated in the Chancellor's opinion, which was delivered on the 26th of January, 1854.]

THE CHANCELLOR :

The proceedings in this case, which are voluminous, need not be recited, the questions in controversy depending upon the proper construction of the will of Cumberland Dugan, deceased, who died on the 1st of November, 1836, and upon the legal effect of certain facts admitted by the parties, as appears by their written agreement.

The testator was twice married, and by his second marriage had four children, to wit, Hammond Dugan, Frederick James Dugan, Rebecca Hollins and Cordelia Margaret Hollins, and with reference to these in the 14th clause of his will, he says : "And whereas, it is my wish and desire, that my four children (naming the above four) shall be placed by me as nearly as possible on an equality in the division of my estate under *this present will*, and under such conveyances, gifts, &c., as I may have made to them respectively, and also having regard to their respective situations ; and whereas, the Washington Cotton Factory, hereinbefore devised, to the use of my two daughters, Rebecca and Cordelia Margaret, was purchased by me for the sum of \$27,500, I, therefore, order and direct, that as early after my decease as may be practicable, my executrix and executors shall sell such portions of my bank and other stocks as shall produce the sum of \$27,500, and pay therefrom, to my son, Hammond Dugan, the sum of \$13,750, and to my son, Frederick James Dugan, the sum of \$13,750."

The will was executed on the 5th of October, 1832, and letters testamentary were granted to Margaret Dugan, the widow of the testator, in December, 1836, soon after his death.

These sums not having been paid, the plaintiff in the present bill, among other things, seeks to recover from the daughters of the testator by a sale of the real estate devised to them and their children, first the legacy so bequeathed to him, and secondly, his one-third of the sum bequeathed to his brother Hammond, now deceased.